

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ANTONIO BAYNES

Plaintiff,

v.

CITY OF BALTIMORE, *et al.*

Defendants.

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Civil No. CCB-17-3473

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OFFICER TERRELL HOWARD’S ANSWER TO FIRST AMENDED COMPLAINT

Defendant, Officer Terrell Howard (“Officer Howard” or “Defendant”), by and through undersigned counsel, files this Answer to the First Amended Complaint (“Complaint” or “Plaintiff’s Complaint”) filed against him by the Plaintiff, Antonio Baynes (“Plaintiff”) and states as follows:

GENERAL DENIAL

Pursuant to Federal Rule of Civil Procedure 8(b) (3), Officer Howard generally denies the allegations in the Plaintiff’s Complaint.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim for which relief can be granted.
2. Defendant acted reasonably under the circumstances and in good faith.
3. Defendant’s acts are entitled to immunity.
4. Plaintiff’s Complaint is barred by virtue of the failure of the Plaintiff to give the proper statutory and administrative notices prior to the filing of the Complaint.

5. The amounts claimed in the addendum clauses exceed that allowed by law.

6. To the extent Plaintiff suffered any injuries, losses or damages, such were caused by his own acts or omissions.

7. To the extent Plaintiff suffered any injuries, losses or damages, such were not proximately caused by any acts or omissions of Defendant.

8. To the extent Plaintiff suffered any injuries, losses or damages, such were caused by a third party.

9. To the extent Plaintiff suffered any injuries, losses or damages, such were caused by an intervening third cause.

10. Defendant did not act with malice.

11. Defendant is not the proper party to this action.

12. Plaintiff's contributory negligence was a direct and proximate cause of any harm, damage or injury complained of in the Complaint.

13. At all times relevant to the Complaint, Defendant was performing lawful duties as a member of the Baltimore Police Department, and is thus entitled to a qualified privilege and/or qualified immunity.

14. At all times relevant to the Complaint, Defendant was performing lawful duties as a member of the Baltimore Police Department, and is thus entitled to public official immunity.

15. Defendant had probable cause to take all actions, in fact, taken by the Defendant respecting Plaintiff, if any.

16. The Defendant's conduct respecting the Plaintiff at all times relevant to the Complaint was neither severe, nor outrageous, nor reckless, nor grossly negligent.

17. To the extent Plaintiff received or suffered any damage or injury described in the Complaint, no such damage or injury was inflicted by this Defendant.

18. To the extent Plaintiff received or suffered any damage or injury described in the Complaint, such were caused by Plaintiff's own action or inaction.

19. Plaintiff assumed the risk of any harm, damage or injury complained of in the Complaint.

20. The Complaint is barred by the applicable statute of limitations.

21. The Complaint is barred by estoppel.

22. The Complaint is barred by laches.

23. The Complaint is barred by waiver.

24. Plaintiff's Complaint is barred by the statutory cap on damages under the Local Government Tort Claims Act.

WHEREFORE, Defendant requests that the Complaint be dismissed, with prejudice, at Plaintiff's cost and for such other and further relief as this Court deems appropriate.

May 10, 2018

Respectfully submitted,

/s/ Thurman W. Zollicoffer, Jr.
Thurman W. Zollicoffer, Jr.
Whiteford, Taylor & Preston L.L.P.
Seven Saint Paul Street, Suite 1500
Baltimore, Maryland 21202
(410) 347-8700
tzollicoffer@wtplaw.com
Attorneys for Defendant,
Officer Terrell Howard

CERTIFICATE OF SERVICE

I certify that on this 10th day of May, 2018, a copy of the foregoing Officer Terrell Howard's Answer to Complaint was served via the Court's CM/ECF system, in accordance with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Maryland, to all counsel of record, including:

Solomon M. Radner (20195)
Excolo Law, PLLC
26700 Lahser Road, #401
Southfield, MI 48033
Attorneys for Plaintiff

/s/ Thurman W. Zollicoffer, Jr.
Thurman W. Zollicoffer, Jr.

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